IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5239 of 2007()

AGAINST THE ORDER DATED 09/08/2007 IN CRMP.1530/2007 IN CRMP.1529/2007 of DISTRICT COURT, PATHANAMTHITTA

.....

CRIME NO. 648/2007 OF ADOOR POLICE STATION

PETITINERS/ACCUSED NO.2 & 7:

---

1. RAJESH KUMAR, AGED 19 YEARS,
S/O. DEVARAJAN PILLAI, RAJESH BHAVANAM,
ANANDAPALLY, PANNIVIZHA, ADOOR.

2. KRISHNA KUMAR, AGED 30 YEARS,
S/O. GOPALAKRISHNA KURUP,KULANJIYILAZHIKATHU HOUSE
POTHADI, PERINGANADU VILLAGE, ADOOR.

BY ADV. SRI. K.SHAJ
SRI.B.BALRAJ
SRI.SAJJU.S

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

B.A.No.5239 of 2007

= = = = = = = = = = = = = =

Dated this the 10th day of September, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 2 & 7. Altogether there are 10 named accused persons and three other accused. The petitioners face allegations, inter alia, under Section 324 and 308 read with 149 IPC. The petitioners belong to the CPM. They are alleged to have attacked the victim who belongs to the BJP using iron rods and sword sticks. The petitioners are named in the FIR. They are accused 2 & 7 in the crime . Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. On account of political animosity, false allegations are being raised. At any rate ,there is no justification for inclusion of the offence under Section 308 IPC. The petitioners may in these circumstances be granted anticipatory bail , it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious. Political animosity has prompted the petitioners to unleash a murderous attack. Iron rods and sword sticks are used for commission of the offence. Injuries suffered evidence the serious nature of the

attack. At any rate, this is not a fit case were powers under Sec.438 can or ought to be raised, asserts the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there is no feature in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioners appear before the Investigating Officer or the learned Magistrate and apply for bail,after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE